IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2007

CORAM:

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.1372 of 2007

B.Purushothaman @ Kumar @ Naicker
@ Dineshkumar @ Mohanraj @ Gopala
Krishna Raja @ Suresh Raj .. Petitioner

Vs

1. The Commissioner of Police,
   Detaining Authority,
   Coimbatore City.

2. The State of Tamil Nadu,
   Rep. by its Secretary,
   Prohibition & Excise Dept.,
   Fort St. George, Chennai-9. .. Respondents

Petition filed under Article 226 of the Constitution of India for issue of Writ of Habeas Corpus as stated therein.

For Petitioner : Mr.K.Manowjkumar
For Respondents: Mr.N.R.Elango
Additional Public Prosecutor

O R D E R

(Order of the Court was made by P.D.DINAKARAN,J.)

The petitioner, aggrieved by the order of detention dated 21.7.2007 passed by the first respondent in C.No.56/G/IS/2007 branding him as Goonda under the provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), has filed this petition seeking issue of Writ of Habeas Corpus to call for the records relating the order of detention, to quash the same and to direct the respondents to produce him before this Court and set him at liberty.

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2. On the basis of the complaint lodged by one Senthil, working in a yarn trading company, alleging that on the morning of 12.7.2007, he went to Ramanathapuram taking with him two blank cheques belong to the company, on the premise that the detenu, who claimed himself as a big yarn broker, would arrange for purchase of yarn and on reaching the place, the detenu asked for the cheques and when the complainant enquired about the goods, the detenu threatened, at the point of knife, to kill him if he stands on his way and rushed in his scooter in a rash and negligent manner, on seeing which, the public, who were there, ran helter shelter creating traffic dislocation and in the melee, the detenu escaped from the spot, a case in Crime No.567 of 2007 was registered against the detenu on the file of B-7 Ramanathapuram Police Station for offence punishable under Sections 395 and 506(ii) I.P.C. and during the course of investigation, the detenu was arrested and produced before the Court for judicial custody.

3. Taking into consideration the above said ground case as well as four adverse cases, viz. in Crime No.24/2002 on the file of Coimbatore City Crime Branch for the offence under Section 420 r/w 109 IPC; Crime No.141/2004 on the file of Gobichettipalayam Police Station for the offence under Sections 420 and 409 IPC; Crime No.01/04 on the file of Erode District Crime Branch for the offence under Sections 420 and 409 IPC and in Crime Nos.82 and 117 of 2005 for offences under Sections, 406, 420 r/w 120(b) IPC., the first respondent, having satisfied that there is a compelling necessity to detain the detenu in order to prevent him from indulging in the activities which are prejudicial to the maintenance of public order, ordered his detention dubbing him as a 'Goonda'.

4. The main contention of the learned counsel for the petitioner is that the order of detention was passed by the second respondent mechanically, even before formulating the grounds of detention. To substantiate the same, the learned counsel pointed out that the order of detention is dated 21.7.2007, whereas the grounds of detention were formulated only on 25.7.2007.

5. We have perused the records produced before us. It is apparent on the face of the records that the grounds of detention were formulated only on 25.7.2007, whereas as seen from the booklet produced by the learned Additional Public Prosecutor, the order of detention was passed on 21.7.2007, which, in our considered opinion, is not possible. Therefore, even before the formulation of the grounds of detention, the detention order was passed, which vitiates the order of detention and hence, we are inclined to allow this petition.

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In the result, the order of detention is quashed and the Habeas Corpus Petition is allowed. The detenu is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

sra

To

1. The Secretary,
   Government of Tamil Nadu,
   Prohibition & Excise Dept.,
   Fort St. George, Chennai-9.

2. The Commissioner of Police
   Coimbatore City.

3. The Superintendent,
   Central Prison, Coimbatore.

4. The Joint Secretary to Government,
   Public (Law and Order) Department,
   Fort St.George, Chennai -9.

5. The Public Prosecutor
   High Court, Madras.

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SCD(CO)
RVL 14.12.2007

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